

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

Crl.L.P..No. 9 of 2007()

STC.2285/2005 of J.M.F.C.-I, KANNUR

.....

PETITIONER/COMPLAINANT:

DILEEP E.M.,
S/O. ISMAIL,
NEW MARBLE JEWELLERY,
BELLARD ROAD, KANNUR.

BY ADV. SRI.P.K.RAVISANKAR

RESPONDENTS:

1. STATE OF KERALA REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. T.V. RANJITH KUMAR,
S/O. LAKSHMANAN, ELAYAVOOR, KANNUR.

R1-BY P.P.SRI.C.M.NAZAR

THIS CRIMINAL LEAVE PETITION HAVING COME UP FOR ADMISSION ON
ON 16/01/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K. THANKAPPAN, J.

Crl.L.P.No.9 OF 2007

Dated this the 16th day of January, 2007.

O R D E R

This special leave petition is filed against the order passed by the court below in STC No.2285/2005. It is revealed through the complaint that the 2nd respondent herein received an amount of Rs. Two lakhs from the complainant for which he has issued Ext.P1 cheque. When the cheque was presented for encashment, the same was dishonoured. To prove the case against the 2nd respondent, the appellant/complainant himself was examined as PW1 and relied on Exts.P1 to P6. On closing the appellant's evidence, the 2nd respondent had taken a case that there was a loan transaction between the brother of the appellant and one Seemandini and the loan was for one year and in the loan transaction a blank cheque was given. In order to get back the loan amount, a suit as O.S.No.264/1999 has been filed before the Sub Court, Thalassery and that suit was compromised and Ext.D1 compromise decree has been passed. The case set up by the 2nd respondent is that in spite

of Ext.D1 compromise decree, the cheque issued as security for the loan taken by Seemandini from the brother of the appellant, has not been returned. The lower court had considered the case set up by both the appellant and the 2nd respondent. The court below found that the presumption available under Sections 139 and 118 of the N.I.Act has been rebutted by the 2nd respondent and the 2nd respondent had proved that the cheque was issued in connection with the loan transaction and there was no consideration has been passed in favour of the 2nd respondent for issuing Ext.P1 cheque and hence, the court below found the appellant failed to prove any case against the 2nd respondent.

On hearing the counsel appearing for the appellant and on reading the judgment of the lower court, this Court is of the view that the findings entered by the trial court does not require any interference. Accordingly, the special leave petition stands dismissed.

K. THANKAPPAN, JUDGE.

cl

